IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 24514 of 2007(R)

AGAINST THE ORDER IN EP 705/2002 IN
OS.227/2001 of ADDL.M.C.,IRINJALAKUDA

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PETITIONER:

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1. ANTO,S/O. ROCKY,PALAKKAL HOUSE,
KADUPPASSERY DESOM.KADUPPASSERRY VILLAGE,
MUKUNDAPURAM TALUK.

2. CHANDRAN,S/O. KARIPPULLIPARAMBIL
VELAYUDHAN, KADUPPASSERY DESOM,
KADUPPASSERRY VILLAGE,MUKUNDAPURAM TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENTS:

THE INSAT KURIES AND LOANS PVT.LTD,
REPRESENTED BY ITS CHAIRMAN, VELLANGALLUR P.O.,
IRINJALAKKUDA,THRISSUR DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.24514 OF 2007

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Dated this the 13th day of August 2007

JUDGMENT

This writ petition is filed to set aside the order of sale passed by the Munsiff's Court, Irinjalakkuda in E.P.No.705 of 2002 in O.S.No.227 of 2001. The main grievance of the learned counsel for the petitioners is that the court has not considered the applicability of Section 60(c) of the Code of Civil Procedure as per which judgment debtors 3 and 4 are entitled to get exemption of attachment of sale of their property. Under Section 60(c), houses and other buildings(with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist or a labourer or domestic servant and occupied by him are exempted from attachment.

2. A perusal of the counter statement would show that no such claim is made by judgment debtors 3 and 4. But at the same time learned counsel for the petitioners submits that if some breathing time is given to his clients they will be in a position to pay the entire amount so that unnecessary hardship of sale can be averted. I am inclined to grant some time and the

writ petition is disposed of as follows:(1) Petitioners shall pay an amount of Rs.10,000/- on or before 15.9.2007 and the balance decree amount in 5 equal monthly instalments commencing from 15.10.2007. In case of default of two consecutive instalments or failure to pay Rs.10,000/- on or before 15.9.2007, the decree holder is entitled to proceed with the same proclamation and the judgment debtors have waived the right to have a fresh proclamation. The sale which stands posted today be deferred so as to permit the petitioner to comply with the direction contained in this judgment.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-